



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
NATIONAL GUARD BUREAU
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21 OCT 1997

NGB-ARE (200)

MEMORANDUM FOR THE ADJUTANTS GENERAL OF ALL STATES, PUERTO RICO,
THE VIRGIN ISLANDS, GUAM AND THE DISTRICT OF
COLUMBIA

SUBJECT: (All States Log Number P98-0004) Revised Guidance for
Environmental Documentation.

1. This memorandum supersedes the guidance contained in All States Log Number P96-0045, dated 22 March 1996.
2. References:
 - a. AR 200-2, Environmental Effects of Army Actions, 23 December 1988.
 - b. National Environmental Policy Act of 1969 (NEPA).
 - c. Army National Guard Manual for Compliance with the National Environmental Policy Act of 1969, February 1998.
3. This memorandum provides current guidance for NEPA policies detailed in the references for proposed Army National Guard (ARNG) actions.
4. The NEPA requires federal agencies to consider environmental consequences of any proposed action and to involve the public in the decision making process. The NEPA process involves three levels of analysis: a Categorical Exclusion (CX), an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). Typical ARNG actions requiring environmental documentation include but are not limited to: construction, training, troop training (community service) projects, major equipment fielding or relocation, restationing/reorganization, real property actions, installation master plans, and environmental management plans. Actions which occur on any non-ARNG controlled property require the written concurrence of the land owner in addition to NEPA documentation.
 - a. A CX is acceptable only for noncontroversial actions that will have no significant individual or cumulative effect on

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the human environment. Prior to selection of a CX, a thorough evaluation of the screening criteria must be accomplished. A list of CXs and screening criteria are found in Appendix A, AR 200-2. Appendix A identifies the CXs which require a decision document: a Record of Environmental Consideration (REC). All RECs submitted to NGB-ARE must be supported by the ARNG Environmental Checklist. The ARNG Environmental Checklist is provided at Enclosure 1 (under revision). States are encouraged to develop an internal checklist which addresses their specific, internal requirements for RECs not requiring submittal to the National Guard Bureau Environmental Programs Division (NGB-ARE).

b. The REC clearly and concisely describes the proposed action, identifies the proponent and explains why further environmental analysis and documentation are not required. A REC documents that NEPA requirements have been fulfilled, by either a CX as stated in Appendix A, AR 200-2, an existing EA/EIS, or has been exempted by law. A REC form is provided at Enclosure 2.

c. An EA is required for all actions that cannot be categorically excluded (unless an EIS is required). An EA is required for actions that may have the potential to impact the environment but need additional information for a decision, or for actions that have the potential for impact but can be mitigated and a decision document, a Finding Of No Significant Impact (FONSI), can be supported.

d. The components of an EA can be found in Section 5-4 of AR 200-2. The EA should focus on describing those subject areas that may be affected by the actions. The internal Draft EA initially will be staffed with the appropriate state ARNG personnel (Legal, Public Affairs Officer (PAO), etc.) as directed by the Adjutant General. Subsequent early consultation with appropriate local state and Federal agencies shall be completed before submission of a Draft EA package to NGB. Examples of completed EAs/EISs can be obtained from NGB-ARE or from the Army Environmental Center's NEPA library. Enclosure 3 provides NGB-ARE's "Checklist For Evaluation of an Environmental Assessment (EA)" to be used as a guide during draft EA preparation.

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e. If a FONSI cannot be supported, the proponent may choose to modify or terminate the proposal or proceed to an EIS. If the proponent proposes to proceed to an EIS, the State Environmental Manager (SEM) (State Environmental Specialist/Environmental Program Manager) should contact NGB-ARE for further guidance.

5. The proponent of a proposed action is responsible for considering NEPA requirements early in the decision making process. This responsibility includes providing adequate resources for document preparation, related studies, public involvement and any mitigation that may be required for implementation of the proposed action. Resources should be identified early in the planning process to ensure that the action will not be adversely impacted. The SEM, although not usually the proponent, will assist in the preparation and staffing of the necessary environmental documentation while providing technical expertise to the project.

7. Areas of special attention:

a. Clean Air Act: As part of conducting the review of significant environmental regulatory requirements, a proponent is required to ensure that its proposed action complies with the U.S. Environmental Protection Agency's General Conformity Rule (40 CFR Part 93) which addresses air pollution from certain federal actions. This rule only applies in air pollution nonattainment areas. U.S. Army conformity policy, (Department of the Army Guide for Compliance with the General Conformity Rule Under the Clean Air Act, 15 June 1995), requires ARNG to comply with the General Conformity Rule by preparing a Record of Non-applicability ("RONA"), which should set forth estimated emissions from a proposed action in non-attainment areas. A RONA is intended to show that the estimated emissions from a particular project would not exceed emission threshold levels for criteria air pollutants.

b. Executive Order (EO) 13045, "Protection of Children from Environmental Health Risks and Safety Risks:" All actions requiring a NEPA evaluation also require a review of the proposed action under EO 13045. In all EAs and EISs this review will be documented, in a section titled "EO 13045," and the finding of the review stated. If it is determined that the

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action would disproportionately affect children, additional analysis will be required.

c. Executive Order (EO) 12898, "Federal Actions to Address Environmental Justice in Minority and Low-Income Population," all actions requiring a NEPA evaluation also require a review of the proposed action under EO 12898. In all EAs and EISs this review will be documented, in a section titled "EO 12898," and the finding of the review stated. If it is determined that the action would disproportionately affect minority and/or low-income populations, additional analysis will be required.

d. Cultural Resources, NEPA documentation should include a comprehensive assessment of the impacts of proposed actions on cultural resources. However, compliance with NEPA for a specific action does not relieve the State of the independent compliance procedures with the applicable cultural resources requirements. Cultural resources requirements are outlined in the following: American Indian Religious Freedom Act (AIRFA); Archeological and Historic Preservation Act (AHPA); Archeological Resources Protection Act (ARPA); Executive Order 13006; Executive Order 13007; National Historic Preservation Act (NHPA), as amended; Native American Graves Protection and Repatriation Act (NAGPRA); Presidential Memorandum for Heads of Executive Departments and Agencies dated April 29, 1994: Government to Government Relations with Native American Tribal Governments; 36 CFR 79: Curation of Federally-Owned and Administered Archeological Collections."

8. A completed Draft EA package will be forwarded to NGB-ARE for NGB distribution and staffing. **EA REVIEW WILL BE DELAYED IF ALL OF THE ITEMS LISTED ARE NOT INCLUDED IN THE DRAFT EA PACKAGE.** The Draft EA package will consist of:

- a. Ten copies of the Draft EA.
- b. One disk (3 ½") containing the Draft EA in Word 97, WordPerfect 5.1 or ASCII format.
- c. A draft news release, along with a display ad (prepared in coordination with the state PAO).
- d. A legal notice if required by the state.

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e. A signature page from the State ARNG staffing process.

9. The Draft EA package will be staffed, comments evaluated, and consolidated by NGB-ARE and returned to the state in approximately 45 days. The proponent will prepare a summary (errata sheet) of the actions taken on each comment received from the NGB staff. This errata sheet will be submitted on a separate memorandum with the Final EA package as described in paragraph 14 of this memorandum. The state will incorporate appropriate comments into the Draft document prior to release for public review. The final Draft EA will be made available locally by the proponent for a 30-day public comment period. Request for exceptions to this requirement should be directed to NGB-ARE. A Notice of Intent (NOI) to prepare an EIS or FONSI will not be attached at this time. A draft FONSI or NOI may be included at this time only if specifically required by state law and it is clearly annotated as a draft.

10. The 30-day public comment process will include a display ad (Notice of Availability (NOA)) published in at least one local newspaper of general circulation. A news release should be provided to the media for publication in those localities potentially affected by the proposed action. The state PAO should be the focal point for public notification and should coordinate and display ads and news releases with NGB-PAI-E. The cost of public involvement is also the responsibility of the proponent.

11. If no substantive comments are received, the document will be re-identified as a Final EA. When substantive public comments are received, the State proponent, SEM and PAO will compile comments and staff replies. All comments and replies received on the EA will be included as an appendix, to the EA, along with the certification of newspaper publication. Replies should include a reference to the portion of the text that addresses the issue. Any additional pertinent information provided by the public will be incorporated into the document.

12. If the EA supports a FONSI, the following will be submitted to NGB-ARE:

a. Forward five hard copies of the Final EA.

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b. A 3.5-inch disk containing the final document, draft FONSI.

c. An errata sheet that summarizes the changes made to the EA based on comments received from the NGB staff and public comments will be submitted to NGB-ARE.

d. One copy of the draft FONSI.

13. The draft FONSI will be staffed, revised as necessary, and presented for signature to the Deputy Director of the Army National Guard (DDARNG). Only the DDARNG or his designee can sign a FONSI for an Army National Guard action. The State's Adjutant General or installations Active Army Commander cannot sign for the National Guard Bureau. The signed FONSI will be returned to the state and will be maintained by the SEM. A NOA of the FONSI and Final EA will be published using the same procedures identified in paragraph 10. No action, other than planning on the proposal, may be taken for 30 days following publication of the FONSI. If the FONSI is not contested within the 30-day public review period, the proposal may be initiated.

14. If the completed EA can not support a FONSI the following options are recommend:

a. Modify the proposed action to avoid the significant impact.

b. Drop the proposed action.

c. Initiate coordination with your NGB regional representative for the planning/development of a proposal to prepare an EIS.

15. Programmatic environmental documents provide an opportunity to minimize cost and accelerate the evaluation process. The intent of the programmatic approach is to capture similar characteristics of an event that may occur in multiple locations. Programmatic documents should capture significant elements of a proposed action that the states can tier from for the site-specific analysis. Although NGB will usually act as the proponent for programmatic documents, the baseline and site-specific information will have to come from the states identified in the document. Full support from the affected

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states is required to realize the benefits associated with programmatic documentation.

16. Many of the NEPA documents developed by the National Guard require review and approval from the Department of the Army and other Federal agencies. It is the sole responsibility of the NGB Environmental staff to coordinate and track progress and the staffing process on environmental documents. All questions concerning the status of documents under review will come through the NGB Environmental Programs Division.

17. The guidance contained in this memorandum will expire on 1 October 1999, unless superseded prior to that date.

18. Point of contact for this information is MAJ John Phillippe, DSN 327-7968, Commercial 703-607-7968.

FOR THE CHIEF, NATIONAL GUARD BUREAU:

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